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IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P. (S). No. 4922 / 2006

Petitioner :

Vedram Bhasker,
S/o Shri Bhuvanlal Bhasker,
Aged about 56 years,
R/o Presently residing at Forest
Compound, Dantewada, Distt.
Dantewada (C.G.)

P.R. No. 4856/26
Presented by Shri. K. Shulceel
dated 1/9/06

Versus

Respondents :

- 1) State of Chhattisgarh – Through
the Secretary, Forest Department,
DKS Bhawan, Raipur (C.G.)
- 2) The Principal, Chief Conservator
of Forest, Raipur (C.G.)
- 3) The Chief Conservator of Forest,
Administration/Gazetted, Raipur
(C.G.)
- 4) The Divisional Forest Officer,
Dantewada Forest Division, Distt.
Dantewada (C.G.)
- 5) M.L.Yadav, Range Forest Officer,
Bijapur Range, Bijapur Forest
Division, Dist. Dantewada (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

IN THE HIGH COURT OF CHHATTISGARH : BILASPUR

Writ Petition No.4921/2006

Petitioner : Vedram Bhasker

- Versus-

Respondents : State of Chhattisgarh & others

Shri P. Diwakar, Senior Advocate with Shri Kashif Shakeel, Advocate for the petitioner.

Shri Satish Gupta, Deputy Govt. Advocate for the respondents No. 1 to 4.

None for the respondent No.5.

O R D E R

(8th September, 2006)

This order of the Court is passed by Justice Satish K. Agnihotri.

1. The petitioner (Vedram Bhasker) has filed this petition challenging the order dated 4.8.2006 (Annexure P/5) whereby the transfer order dated 24.6.2006 has been cancelled in compliance of the order dated 5.7.2006 passed in W.P.No.3202/2006 (Munni Lal Yadav Vs. State of Chhattisgarh & others).
2. Shri Munni Lal Yadav filed W.P.No. 3202/2006, challenging the order dated 24.6.2006 whereby Shri Munni Lal Yadav was transferred on the post of Kasthagar Adhikari, Bijapur and at the place of the petitioner i.e. Range Officer of Forest Range Office, Bijapur, the present petitioner (Vedram Bhaskar), who was impleaded as respondent No.5 was transferred. The grievance of the petitioner in the said petition was that he was posted to a place where no such post was existing.

3. This Court after hearing learned counsel for both the parties passed the following order:-

"Learned counsel for the petitioner submitted that vide letter dated 27.6.2006 (Annexure P-12) the Chief Conservator of Forest, Raipur has already informed the Under Secretary, Forest Department that there is no such post of Depot Officer and therefore, the posting of the petitioner may be modified.

Since the Chief Conservator of Forest, Raipur himself has written letter to the Under Secretary pointing out that there is no such post on which the petitioner has been transferred and it has been requested that the transfer order of the petitioner be modified, the petition of the petitioner is allowed and the Under Secretary, Forest Department is directed to pass appropriate orders in pursuance of the letter dated 27.6.2006 written by the Chief Conservator of Forest, Raipur.

With the direction aforesaid, the petition stands disposed of."

4. In view of the above, the order dated 24.6.2006 has been cancelled pursuant to the order dt. 5.7.2006 passed by this Court in W.P.No. 3202/2006. The present impugned order dated 4.8.2006 cannot be questioned, whereby the petitioner and the respondent No.5 have been accommodated and posted on respective places.
5. The contention of the petitioner that the transfer order passed in administrative exigency cannot be altered as thereafter the administrative exigency cannot be different that of the earlier one. Learned counsel relied on a judgment and order dated 14.8.2006 passed by this Court in W.P.(S) No. 4274/2006 (**Harish Pandey Vs. State of Chhattisgarh & others**).

6. In the case of **Harish Pandey** (supra), the facts were entirely different, where subsequent order dated 8.8.2006 was passed on the request of local member of the Legislative Assembly which was held as not in public interest or in administrative exigency as the same was made at the behest of the M.L.A. The administrative exigency is not for a particular posting but it depends upon various factors which have to be assessed and considered by the Government in public interest.
7. The present impugned order necessarily involve the administrative exigency as the earlier order dated 24.6.2006 created a confusion by appointing two persons at one place without looking into the availability of posts. The present impugned order clarifying the confusion and complication created by the earlier order cannot be held as not passed in public interest or in administrative exigency.
8. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee is to be posted in the interest of administration and public.
9. For the reasons aforementioned, this petition is dismissed. No order as to costs.

Thakur

Sd/-
Satish K. Agnihotri
Judge